88-1208

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1983

MONTE LEE,

Petitioner,

vs.

CHIEF JUSTICE WARREN E. BURGER
JUSTICE HARRY A. BLACKMUM
JUSTICE WILLIAM J. BRENNAN, JR.
JUSTICE THURGOOD MARSHALL
JUSTICE LEWIS F. POWELL
JUSTICE JOHN PAUL STEVENS
JUSTICE BYRON R. WHITE
JUSTICE WILLIAM H. REHNQUIST
JUSTICE SANDRA DAY O'CONNOR,

Respondents.

PETITION TO THE UNITED STATES SUPREME COURT FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MONTE LEE
6520 B. Selma Avenue
Hollywood, CA 90028
(213) 465-6575

Petitioner Pro Per

QUESTION PRESENTED

THE QUESTION IS, WHO GAVE THE RESPONDENTS THE AUTHORITY TO INVENT LAW. SPECIFICALLY THEIR SELF-MADE, SELF-PROTECTED, UNQUALIFIED DOCTRINE OF ABSOLUTE JUDICIAL IMMUNITY THAT MAKES ALL AMERICANS ACCOUNTABLE, AND JUDGES ACCOUNTABLE TO NO ONE NO MATTER WHAT THE CRIME MAY BE?

PARTIES TO THE ACTION

Parties to the action are, Petitioner, MONTE LEE and Respondents, CHIEF JUSTICE WARREN E. BURGER, JUSTICE HARRY A. BLACKMUM, JUSTICE WILLIAM J. BRENNAN, JR., JUSTICE THURGOOD MARSHALL, JUSTICE LEWIS F. POWELL, JUSTICE JOHN PAUL STEVENS, JUSTICE BYRON R. WHITE, JUSTICE WILLIAM H. REHNQUIST and JUSTICE SANDRA DAY O'CONNOR.

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JUSTICE SANDRA DAY O'CONNOR,

Respondents.

PETITION FOR A WRIT OF CERTIORARI

Monte Lee, petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit in this case.

JURISDICTION

A timely petition for rehearing with suggestion for Rehearing en banc was denied on October 31, 1983. The jurisdiction of this Court is invoked under 28 U.S.C. §1254, n.7.

CONSTITUTION, FEDERAL AND STATE STATUTES

The relevant portions of the Constitution and federal and state statutes are adequately set forth in the Petition.

STATEMENT OF THE CASE

This action was instituted by plaintiff on October 27, 1982, pursuant to Section 4 of the Clayton Act (15 U.S.C. 15) alleging violations of the Sherman Act (15 U.S.C. 1, 2) to secure damages against defendants for their violations of Sections 1 and 2 of the Sherman Act (15 U.S.C. 1, 2).

Violation of Hobbs Act, 18 U.S.C. 1951, the Statutory Language Sweeps within it all persons who have in any way or degree... affected commerce.

Violation of Section 4 of the Act of Congress of March 1, 1875 entitled "An Act to Protect All Citizens in Their Civil and Legal Rights" and:

Violation of clearly established statutory and constitutional rules, and:

Clear absence of all jurisdiction.

On October 27, 1982, petitioner filed a civil action against the following respondents, Justice Warren Burger, Harry Blackmum, William Brennan, Thurgood Marshall, Lewis Powell, John Stevens, Potter Stewart, William Rehnquist, and Byron White. Petitioner alleged that they possessed absolute knowledge that their self-made unqualified doctrine of absolute judicial immunity aided, abetted, licensed, protected, and

served to cover up the illegal judge/ attorney combinations who participated in fixed litigation, fraud, illegal use of judicial administrative adjudicative proceedings to restrain interstate trade and commerce, and eliminate competition for a dummy corporation that was a year away from having produced a motion picture when it sued petitioner for unfair competition and was formed to conceal proceeds, justify wrong, protect fraud, and defend crime, and who nobody wanted to claim in plaintiff's antitrust suit.

Petitioner alledged that the respondents willfully and fraudulently combined, conspired, and privately agreed with malice, premeditation and deliberate intent to protect the unlawful acts.

Petitioner alleged that it was the joint and several intent of the respondents acting as conspirators to:

a. Agree to self-protect their self-made unqualified doctrine of absolute judicial immunity in which they all have a substantial interest simply by not making their court available (a dead court) to petitioner or, for that matter, to anyone who may bring an action against a judge with two words, certiorari denied;

b. Agree to protect judges in everything from good faith errors, malicious abuse of power, to crime, possessing absolute knowledge that to do so they would be acting in clear absence of all authority and jurisdiction.

c. Agree to free from liability all conspirators if a judge is involved.

d. Agree to make the unsuspecting public a party to protecting judge crime with the words "that their self-made unqualified doctrine of absolute judicial immunity is for the benefit of the public, whose

interest it is that judges should be at liberty to exercise their functions with independence, and without fear of consequences;"

e. Agree to usurp the authority of both the executive and legislative branches of government neither of the other two branches giving their approval to protect judge crime, or to give judges blanket immunity, and certainly no approval by the public to whom the courts belong.

Petitioner alleged that the respondents unqualified doctrine of absolute judicial immunity provided the advantage, the means, the license, the way, the protection to an unlawful monopoly.

Petitioner alleged that the respondents self-made doctrine of absolute judicial immunity permitted the courts to be a vehicle for maintaining and carrying out an unlawful monopoly which had for its

purpose the elimination and prevention of competition.

Petitioner alleged that the respondents deliberately, intentionally and unlawfully used their power to pick, select, and agree in secret what they will review, and what they will not review. The real issue here is that the respondents deliberately chose to combine and agree to circumvent that power to monopoly power. The respondents acted in pursuit of their own interest to self-protect their unqualified self-made doctrine of absolute judicial immunity by cementing a final restraint upon petitioner's access to judicial hearings with two words, certiorari denied, and for the unlawful purpose to protect judge crime and shield judges with blanket immunity.

That the respondents deliberately chose to make themselves an unlawful imperious monopolistic power on high, subject

to no check and balance system as described in the supreme law of the land, the United States Constitution--the guarantee of American liberty.

CLEAR ABSENCE OF ALL AUTHORITY AND JURISDICTION

That the respondents possessed absolute knowlege that their authority and jurisdiction is conferred to them by the Constitution and the laws.

That the respondents possessed absolute knowledge that our Constitution and our laws did not confer to them the authority or jurisdiction to aid, abet, license, and protect crime.

The respondents joined in the restraints upon petitioners access to judicial hearings by closing their doors on petitioner. This constitutes abridgement of the First, Fifth,

and Fourteenth Amendments to the Constitution. Such abridgements support a finding of antitrust violations as well.

Petitioner like all other persons, is constitutionally entitled to free access to judicial bodies so long as such petitioning is not utilized for illegal or unconstitutional purposes. United Mine Workers v. Illinois State Bar, ___ U.S. ___, 19 L.Ed.2d 426 (1967). The Courts must always be open and available at reasonable costs. Conneayu v. Geis, 73 Cal. 176 (1887).

Where the federal courts are concerned, petitioner's right of access is guaranteed by the right of petition and free speech clauses of the First Amendment, and due process clause of the Fifth Amendment. Where the state courts are concerned, petitioner's rights are guaranteed by the First Amendment as incorporated in the

Fourteenth Amendment, and by the due process clause, Railroad Commission of California v. Pacific Gas and Electric Co., 302 U.S. 388 (1939), and equal protection clause; Yick Wo v. Hopkins, 118 U.S. 356 (1886), of the Fourteenth Amendment.

As observed in Rankin v. Howard, the U.S.C.A. 9th, 78-3216 (1980) has held that a judge looses his personal immunity from suit where he makes a private agreement to decide in favor of one's party or he acts in the clear absence of jurisdiction. Plaintiff's complaint made it clear that the above-named defendants violated both.

The use of litigation for illegal purposes is a common tool of the monopolist and is condemned. Kobe Inc. v. Dempsey Pump Co., 198 F.2d 416 (10th Cir. 1952).

Violation of the Hobbs Act, 18 U.S.C. 1951, the Statutory Language Sweeps within it all persons who have in anyway or degree...

affected commerce.

The Sherman Act is violated by a conspiracy to unreasonably restrain or monopolize trade through the use of judicial or adinistrative proceedings. Trucking Unlimited v. California Motor Transport Company, 432 F.2d 755 (9th Cir. 1970).

Accordingly, the general rule is applicable, the Sherman Act is violated by a conspiracy to unreasonably restrain or monopolize trade through the use of judicial and administrative adjudicative proceedings. (See: Walker Process Equipment, Inc. v. Food machinery and Chemical Corp. (1965) 382 U.S. 172, 86 S.Ct. 347; Kobe, Inc. v. Dempsey Pump Co., 198 F.2d 416 (10th Cir. 1952), cert. denied 344 U.S. 837.

The law does not allow an individual or a corporation to use the Courts as a vehicle for maintaining and carrying out an unlawful monopoly which has for its purpose the elimination and prevention of competition. (See: Kobe, Inc. v. Dempsey

Pump Co., supra.

ORIGINAL SUIT

The original suit brought against petitioner by Metro-Goldwyn-Mayer, Cinerama, and Gallen Films, a Switzerland corporation, charged petitioner with unfair competition for using two words, "wonderful" and "world" to advertise petitioner's color motion picture "Grimms Fairy Tales" (a children's motion picture).

Metro Goldwyn Mayer, Cinerama and Gallen Films had no motion picture. Metro-Goldwyn-Mayer and Cinerama in their suit against petitioner stated that they supplied and are obligated to supply one hundred percent (100%) of the financing to Gallen Films to produce and to deliver to them a completed feature motion picture entitled "The Wonderful World of the Brothers Grimm."

In petitioner's antitrust suit, Cinerama did not know who they gave financing to, and Metro-Goldwyn-Mayer denied giving Gallen Films money to produce the picture.

Petitioner was recommended to attorney Edward Mosk to represent him. Mosk agreed to do so. At this time Mosk's brother, Stanley, was running for Attorney General, and his campaign was being spearheaded by George Killion, who was chairman of the board for Metro-Goldwyn-Mayer. Petitioner was unaware of this at the time he engaged Mosk as his attorney.

Superior Court Judge Gordon Files overruled a demurrer filed by Mosk and granted a preliminary injunction in favor of Metro-Goldwyn-Mayer, et al.

Petitioner wanted to go to trial and get the matter over with. You can't do anything with a motion picture that is

tied up in litigation!

Edward Mosk represented to petitioner by way of memorandum that Superior Court Judge Gordon Files said he realized there was no authority or precedent for his decision and that he agreed the matter should be decided by the higher court. This statement was discovered to be untrue in a deposition taken of Mosk.

To tie petitioner's picture up in litigation longer, Mosk falsely, by way of memorandum, represented to the petitioner that to rule favorably for Metro-Goldwyn-Mayer, et al., the Appellate Court would have to re-write the law. That was not so. The order was affirmed more than a year later on January 17, 1963. This provided Metro-Goldwyn-Mayer, Cinerama, and Gallen Films a year to produce a motion picture.

To tie up petitioner's picture longer in litigation, Mosk's petition for a hearing

by the Supreme Court of California was denied on March 13, 1963.

On May 16, 1963, Judge McCoy granted Mosk and Rudman's motion to be relieved as petitioner's attorney.

Petitioner, than a defendant, appeared in propria persona before Superior Court Judge Robert Patton on the 15th day of November, 1963, where petitioner's motion was made upon an affidavit by petitioner attached to petitioner's Notice of Motion to Set Aside Default that had been taken against him and upon the Court's record and files with an answer to complaint and a cross-complaint.

Among all the corporation heads of Metro-Goldwyn-Mayer, Cinerama and Gallen Films, affidavits submitted in opposition to petitioner's motion to set aside the default and permit the matter to go to trial was one by petitioner's former

attorneys, Edward Mosk and Norman Rudman, confirming on November 15, 1963, that they were all joined in conspiracy.

Continuing from this point on, judges and attorneys participated in unlawful attorney judge alliances, and corruption within the court system, fraudulent opinion, false judgments all to aid Edward Mosk, brother of California Supreme Court Justice Mosk.

ARGUMENT

DOCTRINE OF ABSOLUTE JUDICIAL IMMUNITY WAS THE DIRECT AND PROXIMATE CAUSE OF INJURY.

Petitioner was caught up in the web of the following unlawful attorney judge arrangement that unlawfully and effectively seals off the individual citizen from his current legal ability to directly sue the

government official who violated his or her rights.

The California State Bar of Governors in speaking for all lawyers in 1971, adopted a policy statement declaring it to be the duty of all members to defend the courts from improper attack whether it is fair no matter whether it is right or wrong. Improper attack would mean any case that would involve a judge or judges. Attorneys would refuse the case or such as in petitioner's case, serve the other side.

The State Bar Board of Governors and their thousands of members united with judges, and with the respondent's self-made, self-protected, unqualified doctrine of absolute judicial immunity erects in our court system a judge protective fortress. In petitioner's case, the insurmountable barrier being unlawful attorney/judge alliances that put petitioner on a one-way

street to the closed door of the respondents who protect judges and hold them unaccountable whatever the crime may be, permitting a judge to be free like a loose cannon, to inflict indiscriminate damage whenever he announces that he is acting in his judicial capacity.

IN THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

In an antitrust suit entitled Monte Lee, plaintiff, vs. Edward Mosk, Norman Rudman, Attorneys at Law, and Metro-Goldwyn-Mayer, Inc., a corporation, Cinerama, Inc., a corporation, and Gallen Films S.A., a corporation, defendants, Civil Action NO. 66-1804, plaintiff appeared in pro-per before Judge Charles Carr.

Judge Charles H. Carr Clearly Stated Problem of Plaintiff

THE COURT: You are having trouble getting a lawyer. I guess that is it, isn't it?

MR. LEE: Yes, the nature of the situation, yes.

THE COURT: I can understand that. If you walked in and said, "I have a check here for $50,000 retainer," you would have no problem.

MR. LEE: No problem.

THE COURT: None at all.

MR. LEE: Although none of the attorneys even mentioned money that I spoke to. They didn't even bring up money.

THE COURT: They just didn't want the case.

MR. LEE: That's right.

THE COURT: You know, they have a rule in England called cab rank rule. It doesn't apply in this country. In England, when you walk out to take a cab, the cabby has to take you whether he wants to or not, and that also applies in the legal profession. You go to a lawyer, and he can't turn you down the way they can in this country, but we don't have a cab rank rule here in this country.

The case was transferred out of the courtroom of Judge Carr to that of Judge David Williams.

Judge David Williams' Clear Absence of All Jurisdiction

In the chambers of Judge David Williams, United States District Court for the Central

District of California in presence of opposing counsel, petitioner was referred by Judge Williams to the law offices of Joseph L. Alioto, all of them being fully aware of the close association of Alioto, Mosk, and opposing counsel, for the unlawful purpose of fixing the case, the all of which petitioner was totally unaware at that time.

Petitioner took a deposition of Superior Court Judge Robert Patton while his antitrust action was in the courtroom of United States District Court Judge David Williams, prior to Judge Williams referring him to the Law Offices of Joseph L. Alioto.

Judge Robert Patton Acted in Complete Absence of Personal and Subject Matter Jurisdiction

Superior Court Judge Robert Patton, with pension rights accruing from a major

motion picture corporation while he was sitting at the bench, had no knowledge who the plaintiff was or who the defendant was, clearly showing that his bench was controlled, as was his decision.

December 19, 1963, Judge Robert Patton, presiding judge of the law and motion court, ruled motion denied for reason palintiff (Metro-Goldwyn-Mayer, et al.) could not possibly prevail if the matter were permitted to go to trial.

Nineteen days later by non pro tunc order, Judge Robert Patton changed the decision to read that defendant could not possibly prevail.

In petitioner's anti-trust action in the United States District Court in the Central District of California, Civil No. 66-1804 DWW, in the law offices of Wyman, Bautzer, Rothman and Kuchel, on September 25, 1970, petitioner took the deposition of

Judge Robert Patton. On page 23 of the deposition, Judge Patton went right back to his original statement that Metro-Goldwyn-Mayer could not possibly prevail.

> "A. You understood. I did not issue these injunctions. That is some other court. I merely stated that your default should not be reopened. I did it because I believed on the cases stated that you had no defense or I forget whether you were the plaintiff or defendant, but that the party who was using the 'Wonderful World of the Brother's Grimm' as a title would not be able to prevail in that suit."

Alioto's purpose of entering the case was not to represent petitioner, his purpose was to shield judges, and to dismiss petitioner's former attorney, defendant

Edward Mosk, brother of Stanley Mosk, a justice of the California Supreme Court.

Alioto dismissed defendant Attorney Edward Mosk in the courtroom of Judge David Williams. The case was then transferred to the courtroom of Judge Matthew Byrne, Jr. for the unlawful purpose of obtaining a directed verdict with the direct cooperation of Judge Byrne. This was done in the following manner:

Petitioner's attorneys, the law offices of Joseph L. Alioto, stated to petitioner that they were going to eliminate judges from petitioner's list of prospective witnesses, because counsel for Metro-Goldwyn-Mayer, Wyman, Bautzer Rothman and Kuchel, were going to produce the judges as their witnesses.

Petitioner's reply to this was by certified letter No. 547261, sent to Law Offices of Joseph L. Alioto, January 11, 1972

return receipt dated January 13, 1972, as follows:

> The only way I can permit the elimination of the Judges from our list of prospective witnesses is as follows:
>
> 1) Judge John Cole - Will deny wrongful or conspiratorial acts.
>
> 2) Judge Robert Patton - Will deny wrongful or conspiratorial acts.
>
> 3) Judge Gordon Files - Will deny wrongful or conspiratorial acts.
>
> That they will as they state produce the Judges as their witnesses.
>
> I am sure that counsel Wyman, Bautzer, Rothman, & Kuchel as an honorable law firm will readily

readily comply with the guarantee.

Please submit this letter to
Counsel for the defendants and
to Judge William M. Byrne, Jr.

Petitioner never got his guarantee in writing and the judges were never brought forth as witnesses. Judge Robert Patton in particular.

Judge Matthew Byrne, Jr.'s Clear Absence of Jurisdiction

Judge Matthew Byrne, Jr. also came to the aid of Alioto, Metro-Goldwyn-Mayer and Cinerama to procure his directed verdict in favor of Metro-Goldwyn-Mayer, Cinerama and Gallen Films in the following manner:

Judge Matthew Byrne in his ORDER RE OPPOSED MOTIONS AND OBJECTIONS INVOLVING

DISCOVERY sent the conniving counsel for the parties off to hold a clandestine conference.

"THE COURT: IT IS ORDERED with respect to all opposed motions and objections relating to discovery matters within Rule 30 through Rule 37, Federal Rules of Civil Procedure, that counsel for the parties shall meet and confer in advance of the hearing, at a mutually convenient time and place, in a good-faith effort to settle all objections and opposed matters.

The conference shall be held at a time in advance of the hearing to enable the parties to narrow the areas of disagreement to the greatest extent possible. Counsel for the objecting party

shall arrange for the conference.

This procedure should enable counsel to resolve the discovery problems in this case without the Court's assistance. The Court is certain that counsel will neither seek improper discovery nor obstruct proper discovery."

The conniving attorneys did exactly the opposite of what Judge Byrne said he was certain they would not do.

In exchange for the dismissal of Edward Mosk and the shielding of judges they dismissed the dummy corporation, Gallen Films.

Judge Byrne was sure that by sending the conniving attorneys off to hold a clandestine conference they would seek improper discovery and obstruct proper discovery. Judge Byrne having accomplished this, he then came directly to the aid of

the conniving attorneys to procure his directed verdict in favor of Metro-Goldwyn-Mayer, Cinerama, and the dummy corporation, Gallen Films.

> "THE COURT: I have some dandy pictures of hunting in Africa that I have all the rights to, but nobody wants to buy them, and I am sure I can get them all over the world with the same rights." (Reporter's Transcript of Proceedings, Tuesday, February 22, 1972, Civ. No. 66-1804-WMB.)

Judge Byrne Jr. made the statement without seeing petitioners motion picture, even though the motion picture was brought into his courtroom and was available for him to see.

In effect what Judge Byrne said is if I can't sell my dandy pictures how does the petitioner expect to sell his.

Judge Byrne possessed the knowledge that petitioner's motion picture had played in theaters before petitioner acquired it for distribution.

Judge Byrne's act was wholly without jurisdiction and his judicial office can offer him no protection.

> A judgment procured fraudulently, as here, lacks jurisdiction and is null and void. [Citations omitted] A fraud affecting the jurisdiction is equivalent of jurisdiction. Wyman v. Newhouse, 93 F.2d 313 (2d Cir. 1972), cert. denied, 303 U.S. 664, 58 S.Ct. 831, 82 L.Ed. 1122 (1938) (emphasis added).

The doctrine of judicial immunity does not immunize a judicial officer from legal process growing out of criminal conduct committed by him in his capacity as a judicial

officer nor does it provide him refuge from civil liability where he has acted in absence or excess of his jurisdiction.

The judicially fashioned doctrine of official immunity does not reach so far as to immunize criminal conduct. Gravel v. United States, 408 U.S. 606 (1972) 92 S.Ct. 3614 (1972).

> The Seventh Circuit has stated, "A District Court decision within the Circuit has held that the doctrine of judicial immunity would not apply to the commission of a 'clearly illegal act' on the part of the judge." Luttrell v. Douglas, 220 F.Supp. 278 (1963).

REASONS FOR GRANTING THE WRIT

The respondents unlawfully used their positions as Justices of the United States Supreme Court to cover up the following:

> JUDGE ROBERT PATTON ACTED IN COMPLETE ABSENCE OF PERSONAL SUBJECT MATTER JURISDICTION. . .
>
> JUDGE SHIRLEY M. HUFSTEDLER ILLEGALLY USED HER JURISDICTION TO AID EDWARD MOSK, BROTHER OF JUSTICE OF CALIFORNIA SUPREME COURT, STANLEY MOSK. . .
>
> P. J. WOOD, PRESIDING JUSTICE AND ASSOCIATE JUSTICES, J. FOURT AND J. LILLIE OF THE DISTRICT COURT OF APPEAL, SECOND APPELLATE DIVISION, CLEAR ABSENCE OF JURISDICTION. . .

JUDGE DAVID WILLIAMS' CLEAR ABSENCE OF ALL JURISDICTION. . .

LAW OFFICE OF JOSEPH L. ALIOTO, ALTHOUGH PLAINTIFF'S ATTORNEYS, THEY SERVED THE OTHER SIDE. . .

JUDGE MATTHEW BYRNE, JR.'S CLEAR ABSENCE OF JURISDICTION. . .

The respondents acted non-judicially and without subject matter jurisdiction.

The respondents participated in a conspiracy in a non-judicial role.

The respondents protected illegal law that they invented. That law is their self-made, self-protected, unqualified doctrine of absolute judicial immunity, that makes all Americans accountable, and judges accountable to no one. This is hardly "judicial" in any fair sense of the word. Judicial immunity does not apply to non-judicial acts. Gregory v. Thompson,

500 F.2d at 63.

The respondents possess absolute knowledge that their role in government is to interpret law, and not to invent law.

Respondents possessed absolute knowledge from petitioner's petition before them that the law that they invented served to cover up unlawful attorney/judge alliances, illegal use of judicial administrative adjudicative proceedings to restrain interstate trade and commerce, protect crime and corruption within the court system.

The respondents' self-made, self-protected, unqualified doctrine of absolute judicial immunity excluded the Constitution, excluded the executive and legislative branches of government, and totally eliminated the American people, which is a clear absence of government.

It is emphatically the province and duty of the Justices of the American peoples'

United States Supreme Court to say who gave them the authority to invent law that protects judge corruption within the court system.

Article 6 of the Constitution makes the Constitution the "supreme Law of the Land." In 1803, Chief Justice Marshall, speaking for a unanimous Court, referring to the Constitution as "the fundamental and paramount law of the nation," declared in the notable case of Marbury v. Madison 1 Cranch 137, 2 L.Ed. 60 (1803) ... that "It is emphatically the province and duty of the judicial department to say what the law is."

Every state legislator and executive and judicial officer is solemnly committed by oath taken pursuant to Art[icle] 6, cl. 3 "to support this Constitution." Chief Justice Taney, speaking for a unanimous Court in 1859, said that this requirement reflected the framers' "anxiety to preserve

it [the Constitution] in full force, in all its powers, and to guard against resistance to or evasion of its authority, on the part of a State...." Ableman v. Booth, 21 Howard 506 (1859), 99, 110.

No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it.

Justice Louis B. Brandeis

Justice Louis B. Brandeis said it best in 1928, in his famous dissent in Olmstead v. United States, 277 U.S. 438 (1928), 485:

> "Decency, security, and liberty alike, demand that government officials shall be subjected to the same rule of conduct that are commands to the citizen. In a government of laws, existence of government will be imperilled if

it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for the law; it invites anarchy."

Justice William J. Brennan

As Justice Brennan observed in McGautha v. California, 402 U.S. 183, 252-253 (1971) (dissenting opinion), "The principle that our government shall be of laws and not of men is so strongly woven into our constitutional fabric that it has found recognition in not just one but several provisions of the Constitution." (footnote omitted).

And, as the Chief Justice said in Complete Auto Transit, Inc. v. Reis, 451 U.S. 401, 429 (1981) (dissenting opinion):

> "Accountability of each individual for individual conduct lies at the core of all law - indeed, of all organized societies. The trend to eliminate or modify sovereign immunity is not an unrelated development; we have moved away from 'the king can do not wrong.' This principle of individual accountability is fundamental if the structure of an organized society is not to be eroded to anarchy and impotence, and it remains essential in civil as well as criminal justice."

Warren E. Burger, Circuit Court of Appeals Judge, to Ohio Judicial Conference on September 4, 1968 -- nine months before being named Chief Justice of the United States:

> "A court which is final and unreviewable needs more careful scrutiny than any other. Unreviewable power is the most likely to self-indulge itself and the least likely to engage in dispassionate self-analysis. In a country like ours, no public institution, or the people who operate it, can be above public debate."

President Ronald Reagan

In February, 1980, Ronald Reagan denounced the Supreme Court for what he called "an abuse of

power as bad as the transgressions of Watergate." Again and again, he said, we had seen the court "override public opinion." Now it was time to stop shielding "justices who put themselve above the law."

It is unlikely that the executive branch of government would support the justices' self-made, self-protected unqualified doctrine of absolute judicial immunity.

The Constitution commands that the President "shall take care that the laws be faithfully executed," and specific congressional statutes direct executive assistance in carrying out court decisions.

Governor George Deukmejian

"Some leading justices think we should defend the courts. They

view public protests as partisan politics, a conflict between 'conservatives' and 'liberals.' They take the position that responsiveness to public opinion should be avoided by the judiciary.

The judiciary is the people's servant, not its master. It is the people's justice the courts dispense, not that of judges.

Leaving the courts alone has been the problem, not the solution. They have grown arrogant in their self-directed isolation.

The opinions of free people are the very test of justice. It is the people who know best what is good for them -- not governments, not judges, not any single man or woman."

". . . I regret to say, however, that the course of the Supreme Court in recent years has been such as to cause me to ponder the question whether fidelity to fact ought not to induce its members to remove from the portal of the building which houses it the majestice words, 'Equal justice under law,' and to substitute for the superscription, 'Not justice under the law, but justice according to the personal notions of the temporary occupants of this building. '

"The truth is that on many occasions during recent years the Supreme Court has usurped and exercised the power of the Congress and the States to amend the

Constitution while professing to interpret it. In so doing, the Supreme Court has encroached upon the constitutional powers of Congress as the Nation's legislative body, and struck down State action and State legislation in areas clearly committed to the States by our system of constitutional government. This action has been accompanied by overruling, repudiating, or ignoring many contrary precedents of earlier years.

Senator Sam J. Ervin, Jr. (Dem., N.C.), in Congressional Record, Vol. 114 (Friday, August 2, 1968), p.S10059.

Senator Sam Ervin has observed: "When the people do not know what their government is doing, those who govern are not accountable for their action -- and accountability

is basic to the democratic system."

Senator Charles MacMathias, Jr.

Senator Charles MacMathias, Jr., of Maryland has stated that "Undue concentration of power, political or economic, is the greatest single threat to individual liberty. Our antitrust laws like the Bill of Rights and the principle of checks and balances and separation of power are intended to prevent excessive concentration of power."

CONCLUSION

For the foregoing reasons, this petition for a Writ of Certiorari should be granted.

Respectfully submitted,

MONTE LEE

Petitioner in Pro Per

APPENDIX

APPENDIX

FILED
JUL 28 1983

PHILLIP B. WINBERRY
Clerk, U.S.Court of Appeals

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MONTE LEE, Plaintiff-Appellant, vs. CHIEF JUSTICE WARREN E. BURGER, ASSOCIATE JUSTICES WILLIAM J. BRENNAN, JR., BYRON R. WHITE, THURGOOD MARSHALL, HARRY A. BLACKMUM, LEWIS F. POWELL, WILLIAM H. REHNQUIST, JOHN PAUL STEVENS, SANDRA DAY O'CONNOR. Defendants-Appellees.	) No. 83-5789)DC No. CV 82-5549-TJH)Central California ORDER

Before: CHOY, Circuit Judge.

Appellees' motion of July 11, 1983 for an extension of time in which to file their answering brief until 30 days after this court rules on the pending motion for summary affirmance is granted.

/s/ Herbert Y. C. Choy
United States Circuit Judge

1-J 7/20/83

FILED
SEP 07 1983

PHILLIP B. WINBERRY
Clerk,U.S.COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MONTE LEE, Plaintiff-Appellant, vs. CHIEF JUSTICE WARREN E. BURGER, ASSOCIATE JUSTICES WILLIAM J. BRENNAN, JR., BYRON R. WHITE, THURGOOD MARSHALL, HARRY A. BLACKMUM, LEWIS F. POWELL, WILLIAM H. REHNQUIST, JOHN PAUL STEVENS, SANDRA DAY O'CONNOR, Defendants-Appellees.	) No. 83-5789) DC No. CV 82-5549 TJH Central California) ORDER

Before: KENNEDY and POOLE, Circuit Judges

Appellees' motion for summary affirmance is granted. The district court acted within its discretion in setting aside the entry of default for good cause shown. Fed. R. Civ. P. 55(c). The dismissal of

of defendants on the ground of judicial immunity was proper. See O'Connor v. Nevada, 686 F.2d 749, 750 (9th Cir. 1982), cert. denied, 103 S.Ct. 491. Because the issues are insubstantial and the result is compelled by controlling precedent, this appeal is summarily affirmed.

Appellant's motion to correct the caption is denied. Appellees' motion for costs is also denied.

MoCal 8/29/83

FILED
OCT 31 1983

PHILLIP B. WINBERRY

CLERK,U.S.COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MONTE LEE, Plaintiff-Appellant, vs. CHIEF JUSTICE WARREN E. BURGER, ASSOCIATE JUSTICES WILLIAM J. BRENNAN, JR., BYRON R. WHITE, THURGOOD MARSHALL, HARRY A. BLACKMUM, LEWIS F. POWELL, WILLIAM H. REHNQUIST, JOHN PAUL STEVENS, SANDRA DAY O'CONNOR, Defendants-Appellees.	No. 83-5789 DC No. CV 82-5549 TJH Central California ORDER

Before: KENNEDY and POOLE, Circuit Judges

Appellant's motion for rehearing and suggestion for rehearing en banc are denied.

MoCal 8/29/83

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